

**UNITED STATES DISTRICT COURT**  
**for**  
**EASTERN DISTRICT OF NORTH CAROLINA**  
**WESTERN DIVISION**

**U.S.A. vs. Nelson Magris Agosto**  
**True Name: Nelson Magris Agosto**

**Docket No. 5:12-MJ-1261-1**

**Petition for Action on Probation**

COMES NOW Van R. Freeman, Jr., probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Nelson Magris Agosto, who, upon an earlier plea of guilty to 18 U.S.C. § 13, assimilating NCGS 20-138.1, Driving While Impaired Level 5, was sentenced by the Honorable James E. Gates, U.S. Magistrate Judge, on October 16, 2012, to a 12 month term of probation under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall perform 24 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required \$200 fee.
2. The defendant shall obtain a substance abuse assessment from an appropriate mental health facility within thirty (30) days from the date of this judgment and complete any prescribed treatment program. The defendant must pay the assessment fee and any added treatment fees that may be charged by the facility.
3. It is further ordered that the defendant shall participate in any other Alcohol/Drug Rehabilitation and Education program as directed by the U.S. Probation Office.
4. The defendant shall surrender his North Carolina driver's license to the Clerk of this Court for mailing to the North Carolina Division of Motor Vehicles and not operate a motor vehicle on the highways of the State of North Carolina except in accordance with the terms and conditions of a limited driving privilege issued by the appropriate North Carolina Judicial Official.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR  
CAUSE AS FOLLOWS:**

The defendant is currently being supervised by the Western District of Texas. They report that, although the defendant is in treatment, he continues to consume alcohol and does so to excess. They have asked to modify the defendant's probation to prohibit him from consuming alcohol. We recommend that their request be granted. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

**PRAYING THAT THE COURT WILL ORDER** that probation be modified as follows:

1. The defendant shall abstain from the consumption of any alcoholic beverage during the time he is under supervision.

Except as herein modified, the judgment shall remain in full force and effect.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Van R. Freeman, Jr.  
Van R. Freeman, Jr.  
Senior U.S. Probation Officer  
310 Dick Street  
Fayetteville, NC 28301-5730  
Phone: (910) 483-8613  
Executed On: December 3, 2012

**ORDER OF COURT**

Considered and ordered this 4th day of December, 2012, and ordered filed and made a part of the records in the above case.

  
James E. Gates  
United States Magistrate Judge